



ENVIRONMENTAL PROTECTION AGENCY

[FRL-10131-01-R9]

Revision of Approved State Primacy Program for the State of Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of approval.

SUMMARY: Notice is hereby given that the State of Hawaii revised its approved State primacy program under the federal Safe Drinking Water Act (SDWA) by adopting regulations that effectuate the federal Phase II/V Chemical Contaminant Rules (Phase II/V) and the Arsenic Rule. The Environmental Protection Agency (EPA) has determined that Hawaii's revision request meets the applicable SDWA program revision requirements and the regulations adopted by Hawaii are no less stringent than the corresponding federal regulations. Therefore, EPA approves this revision to Hawaii's approved State primacy program. However, this determination on Hawaii's request for approval of a program revision shall take effect in accordance with the procedures described below in the **SUPPLEMENTARY INFORMATION** section of this notice after the opportunity to request a public hearing.

DATES: A request for a public hearing must be received or postmarked before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Documents relating to this determination that were submitted by Hawaii as part of its program revision request are available for public inspection online at <https://health.hawaii.gov/sdwb/public-notice/>. In addition, these documents are available between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, except official State holidays, at the following address: Hawaii Department of Health, Safe Drinking Water Branch, 2385 Waimano Home Road, Uluakupu Building 4, Pearl City, Hawaii 96782. If there are issues accessing the website, please contact the Safe Drinking Water Branch, at (808) 586-4258, or via email at sdwb@doh.hawaii.gov.

FOR FURTHER INFORMATION CONTACT: Anna Yen, EPA Region 9, Drinking Water Section; via telephone at (415) 972-3976 or via email address at yen.anna@epa.gov

SUPPLEMENTARY INFORMATION: Background. EPA approved Hawaii's initial application for primary enforcement authority ("primacy") of drinking water systems on October 20, 1977 (42 FR 47244). Since initial primacy approval, EPA has approved various revisions to Hawaii's primacy program. For the revision covered by this action, EPA promulgated the Chemical Contaminant Rules, collectively referred to as the Phase II/V Rules, and the Arsenic Rule at 40 CFR Subparts B, C, and G. EPA promulgated the Phase II/V Rules in multiple phases, with Phase V promulgated on July 17, 1992 (57 FR 31776), and EPA promulgated the Arsenic Rule on January 22, 2001 (66 FR 6976). Under the Phase II/V Rules, EPA regulates over 65 inorganic contaminants, volatile organic contaminants, and synthetic organic contaminants. Under the Arsenic Rule, EPA updated the maximum contaminant level for arsenic to better protect public health. EPA has determined that the Phase II/V and Arsenic Rule requirements were adopted into the Hawaii Administrative Rules in a manner that Hawaii's regulations are comparable to and no less stringent than the federal requirements. EPA has also determined that the State's program revision request meets all of the regulatory requirements for approval, as set forth in 40 CFR 142.12, including a side-by-side comparison of the Federal requirements demonstrating the corresponding State authorities, additional materials to support special primacy requirements of 40 CFR 142.16, a review of the requirements contained in 40 CFR 142.10 necessary for States to attain and retain primary enforcement responsibility, and a statement by the Hawaii Attorney General certifying that Hawaii's laws and regulations to carry out the program revision were duly adopted and are enforceable. The Attorney General's statement also affirms that there are no environmental audit privilege and immunity laws that would impact Hawaii's ability to implement or enforce the Hawaii laws and regulations pertaining to the program revision. Therefore, EPA approves this revision of Hawaii's approved State primacy program. The Technical Support Document, which provides EPA's analysis of

Hawaii's program revision request, is available by submitting a request to the following email address: R9dw-program@epa.gov. Please note "Technical Support Document" in the subject line of the email.

Public Process. Any interested person may request a public hearing on this determination. A request for a public hearing must be received or postmarked before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** and addressed to the Regional Administrator of EPA Region 9, via the following email address: R9dw-program@epa.gov, or by contacting the EPA Region 9 contact person listed above in this notice by telephone if you do not have access to email. Please note "State Program Revision Determination" in the subject line of the email. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. If a timely request for a public hearing is made, then EPA Region 9 may hold a public hearing. Any request for a public hearing shall include the following information: 1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; 2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and 3. The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If EPA Region 9 does not receive a timely request for a hearing or a request for a hearing was denied by the Regional Administrator for being frivolous or insubstantial, and the Regional Administrator does not elect to hold a hearing on their own motion, EPA's approval shall become final and effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, and no further public notice will be issued.

Authority: Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300g-2 (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations.

Dated: August 10, 2022.

Martha Guzman Aceves,
Regional Administrator,
EPA Region 9.

[FR Doc. 2022-17933 Filed: 8/19/2022 8:45 am; Publication Date: 8/22/2022]